

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

*The County of Cuyahoga v. Purdue
Pharma L.P., et al.,*
Case No. 17-op-45004

and

*The County of Summit, Ohio, et al. v.
Purdue Pharma L.P., et al.,*
Case No. 18-op-45090.

MDL No. 2804

Case No. 1:17-md-2804

Hon. Dan Aaron Polster

**NON-RICO SMALL DISTRIBUTORS'
MOTION FOR SUMMARY JUDGMENT
BASED ON THEIR *DE MINIMIS* STATUS**

Pursuant to Federal Rule of Civil Procedure 56, non-RICO Defendants Anda, Inc., H. D. Smith, LLC, H. D. Smith Holdings, LLC, H. D. Smith Holding Company,² Henry Schein, Inc., Henry Schein Medical Systems, Inc., and Prescription Supply Inc. (collectively, the “Small Distributors”) respectfully move the Court for summary judgment. The grounds for this motion are set forth in the accompanying memorandum of points and authorities.

¹ On October 2, 2018, H. D. Smith Holdings, LLC and H. D. Smith Holding Company (the “Holding Companies”) moved to dismiss the Second Amended Corrected Complaint in *The County of Cuyahoga, Ohio, et al. v. Purdue Pharma L.P., et al.*, Case No. 1:17-op-45004 (N.D. Ohio) (based on lack of personal jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(2)). ECF No. 1015. Plaintiffs have not filed an opposition, nor has the Court issued a ruling. By joining in any motion in the above-referenced matter, the H. D. Smith Holding Companies are in no way waiving their previously asserted defense that the Court lacks personal jurisdiction over the Holding Companies and must dismiss them from the case pursuant to Fed. R. Civ. P. 12(b)(2).

Dated: June 28, 2019

Respectfully submitted,

/s/ John J. Haggerty

John J. Haggerty (0073572)
James C. Clark
Stephan A. Cornell
FOX ROTHSCHILD LLP
2700 Kelly Road, Suite 300
Warrington, PA 18976
Tel: (215) 345-7500
Fax: (215) 345-7507
jhaggerty@foxrothschild.com
jclark@foxrothschild.com
scornell@foxrothschild.com

*Counsel for Defendant,
Prescription Supply Inc.*

/s/ William E. Padgett

William E. Padgett (IN No. 18819-49)
Kathleen L. Matsoukas (IN No. 31833-49)
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, IN 46204
Telephone: (317) 236-1313
Facsimile: (317) 231-7433
Email: william.padgett@btlaw.com
kathleen.matsoukas@btlaw.com

*Counsel for Defendants H. D. Smith, LLC,
f/k/a H. D. Smith Wholesale Drug Co.,
H. D. Smith Holdings, LLC and H. D. Smith
Holding Company*

/s/ James W. Matthews

James W. Matthews
Katy E. Koski
Kristina Matic
FOLEY & LARDNER LLP
111 Huntington Avenue
Boston, MA 02199
Tel: 617.342.4000
Fax: 617.342.4001
Email: jmatthews@foley.com
kkoski@foley.com
kmatic@foley.com

Counsel for Defendant Anda, Inc.

/s/ John P. McDonald

John P. McDonald
Texas Bar No. 13549090
jpmcdonald@lockelord.com
C. Scott Jones
Texas Bar No. 24012922
sjones@lockelord.com
Lauren M. Fincher
Texas Bar No. 24069718
lfincher@lockelord.com
Brandan J. Montminy
Texas Bar No. 24088080
brandan.montminy@lockelord.com
LOCKE LORD LLP
2200 Ross Avenue
Suite 2800
Dallas, TX 75201
T: 214-740-8445
F: 214-756-8110

*Attorneys for Henry Schein, Inc.
and Henry Schein Medical Systems, Inc.*

CERTIFICATE OF SERVICE

I, John J. Haggerty, certify that the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ John J. Haggerty
John J. Haggerty (0073572)